

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By **CHAIRMAN DALE MAHLUM**, on January 9, 2001 at  
3:00 P.M., in Room 335 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Sen. Dale Mahlum, Chairman (R)  
Sen. John C. Bohlinger, Vice Chairman (R)  
Sen. Chris Christiaens (D)  
Sen. John Cobb (R)  
Sen. Jim Elliott (D)  
Sen. Bill Glaser (R)  
Sen. Duane Grimes (R)  
Sen. Ken Miller (R)  
Sen. Emily Stonington (D)  
Sen. Ken Toole (D)

**Members Excused:** Sen. Don Hargrove (R)

**Members Absent:** None.

**Staff Present:** Leanne Kurtz, Legislative Branch  
Mary Gay Wells, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 50, 1/6/2001  
SB 175, 1/6/2001  
Executive Action:

***{Tape : 1; Side : A; Approx. Time Counter : 0}***

**CHAIRMAN DALE MAHLUM** opened the meeting with a few remarks on how  
the hearings would be run.

HEARING ON SB 50

Sponsor: SEN. MIGNON WATERMAN, SD 26

Proponents: Bill Bayless, Dept. of Administration, General  
Services Division  
Dick Paulsen, American Lung Assoc.  
Jeri Domme, Governor's Advisory Council and  
American Heart Assoc.  
Colleen White, Staff Attorney, Dept. of  
Corrections  
Drew Dawson, Chief, Health Systems Bureau, Dept.  
of Public Health and Human Services  
Cliff Christian, American Heart Assoc.  
Erin McGowan, American Cancer Society  
Joan Miles, Director, Lewis and Clark City-County  
Health Dept.

Opponents: None

Opening Statement by Sponsor:

**SEN. MIGNON WATERMAN, SD 26.** I bring before you today SB 50 which declares all state facilities to be smoke free. The essence of this bill is in two sections. On page one, line 27, (2) "Designated. . . .under 50-40-204" is deleted. On page two, a new section (3) and (4) are added. It reads that buildings owned and occupied by the state and leased and occupied only by the state must be smoke free, etc. This bill comes to you because there is a fair amount of information available which you will hear from other people today. The concerns are not only about smoking in buildings but the effects of second-hand smoke. Right now, the Legislature encourages agencies to work to provide smoking areas where feasible. It is a difficult thing to do, not only because of the expense, but it creates some problems in state agencies to have separate air handling systems and in segregating the remaining buildings. The state is spending a great deal of money encouraging people to quit smoking. This bill will provide a consistent message from the state. Thank you.

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Proponents' Testimony:

**Bill Bayless, Dept. of Administration, General Services Div.**  
This bill was submitted at our request. National surveys are done frequently. A major complaint is usually indoor air quality. Secondary smoke and smoking is a big factor. We have a

difficult time dealing with smoking areas and providing smoking areas within state office buildings. At the present time, there are two buildings on the complex that have smoking areas--the Sullivan and Mitchell buildings. There seems to be continual problems among the people even though there is a separate exhaust system in the Mitchell building. People are affected by the smoke and even in summer, when the windows are open, the secondary smoke from the exhaust systems apparently comes back in the windows upstairs. Beyond that, the language now encourages the agency heads to provide smoking areas when it is feasible and what is feasible. Sometimes it is very expensive to do such a thing. Smoking rooms must have separate ventilation but even in those areas there are still problems. Some people also question why we are spending so much money on something that only benefits a few people. Legislation as it stands now contradicts what the state is doing and that is to educate people and get them to quit smoking or to not begin smoking. Our agency also deals with leased space state wide. In many of the leases we have written, either at the occupants' or landlords' request, smoking is not allowed in their buildings. We would like to make this uniform across the state.

Another important factor is that many jurisdictions are considering ordinances to make public buildings smoke free. This bill would alleviate any possible conflict between such ordinances and existing statutes that encourage agencies to provide smoking areas. Thank you for your time and consideration.

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**Dick Paulsen, American Lung Assoc.** He gave his testimony via his written statement **EXHIBIT(los06a01)**.

**Jeri Domme, Governor's Advisory Council and American Heart Assoc.** She gave her testimony via her written statement **EXHIBIT(los06a02)**.

**Colleen White, Staff Attorney, Dept. of Corrections.** She gave her testimony via her written statement **EXHIBIT(los06a03)**.

**Drew Dawson, Chief, Health Systems Bureau, Dept. of Public Health and Human Services.** He gave his testimony via his written statement **EXHIBIT(los06a04)**. He also gave a handout **EXHIBIT(los06a05)** that provided additional information.

**Cliff Christian, American Heart Assoc.** He handed in his written testimony **EXHIBIT(los06a06)** and expressed a serious concern about ventilation systems. Some people feel that a ventilation system

will handle the separation of smoke from non-smokers. This has been refuted. He handed out three exhibits pertaining to this and other issues involved **EXHIBIT(1os06a07)**, **EXHIBIT(1os06a08)**, **EXHIBIT(1os06a09)**.

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**Erin McGowan, American Cancer Society.** I would like to hand out a sheet of statistics **EXHIBIT(1os06a10)**. It is produced by the American Cancer Society, The American Lung Assoc., The American Heart Assoc. and the Montana Campaign for Tobacco-Free Kids. About 30% of all cancer related deaths is caused by personal tobacco use or exposure to secondhand smoke. This seems to be an overwhelming figure. It is time to get serious about tobacco. Montana should improve its clean air indoor law by requiring state buildings to be totally smoke free. I urge your support for this bill.

**Joan Miles, Director, Lewis and Clark City-County Health Dept.**

We are in support of SB 50. Good evidence in support of this bill has already been presented. In Lewis and Clark County, the City-County Board of Health has recommended to our City Commission that we do adopt a smoke free workplace ordinance. When we looked at the state statues, we wondered what would happen to the state office buildings. Would they be subject to this ordinance? The largest employer in the city of Helena would be exempt from this statute since agencies are encouraged to have facilities to accommodate smokers. Should this ordinance be adopted, we hope the state would be the leader in this issue and pass this bill. I would like to introduce testimony **EXHIBIT(1os06a11)** from the Missoula City-County Health Dept. also. Thank you.

**Opponents' Testimony:** None

**{Tape : 1; Side : A; Approx. Time Counter : 18.5}**

**Questions from Committee Members and Responses:**

**SEN. Chris CHRISTIAENS** inquired about corrections and their facilities. He asked if the intent of the bill meant to include those facilities which have been contracted and also would the bill include the facility at Shelby? **Colleen White** said that she did not believe a contracted facility would be treated as a state owned building. The facilities that have already been contracted for are required to have no tobacco or possession of tobacco.

**SEN. CHRISTIAENS** asked if that included the employees who deal

with the inmates who are residents of those facilities since contraband and tobacco is a great money maker. **Ms. White** said that she would have to research the answer and she would get back to him and the committee.

**SEN. JOHN COBB** wanted to know if, in Section 3, it would be possible to make state owned buildings and leased and occupied only by the state buildings smoke free upon passage of the bill. **Bill Bayless** said that with the leased buildings, it would probably have to be done at the time of the renewal of the lease, but most of the leases to date have been written with the intent of a smoke free building. Concerning those leased buildings that are occupied by the state and other tenants, they would be handled on an individual basis.

**SEN. DUANE GRIMES** wondered how this bill would affect county court houses and other buildings that have their own regulations and do have a special room for smoking. **Mr. Bayless** said that there is no way the state could direct the counties as to how to operate their facilities, but he would hope that the agencies would work with the counties to see what arrangements could be made. **SEN. WATERMAN** said that this bill would not mandate others in how to handle their facilities.

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**SEN. COBB** made the suggestion that there be an effective date upon passage and approval for the state owned buildings.

**SEN. WATERMAN** said that the suggestion was good and it would be good to have the effective date to be upon passage and approval of the bill for state owned and occupied facilities. She asked if **SEN. COBB** would make an amendment dealing with the effective date.

**CHAIRMAN DALE MAHLUM** wondered if this bill should include state vehicles. **SEN. WATERMAN** said she thought that state vehicles were to be smoke free, but she has ridden in some that have definitely not been smoke free.

**Closing by Sponsor:**

**SEN. WATERMAN** closed. She stated that it was a good meeting and thanked the committee. She asked the committee to consider the amendments that had been suggested.

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**HEARING ON SB 175**

**Sponsor:** SEN. WM. E. "BILL" GLASER, SD 8

**Proponents:** Dean Roberts, Administrator, Motor Vehicle Division,  
Dept. of Justice

**Opponents:** None

**Opening Statement by Sponsor:**

SEN. WM. E. "BILL" GLASER, SD 8. When HB 540 was passed in the 1999 Legislative Session, and was coming up as a referendum on the 2000 ballot, the Revenue and Taxation Interim Committee discovered a few warts. The Interim Committee prepared a series of five bills that were to address those warts and also introduce some policy decisions based on what was in the referendum. Senate Bill 175 deals just with the warts. A sheet has been prepared by Jeff Martin **EXHIBIT(los06a12)** to explain the 24 sections in SB 175. Another sheet was prepared as a shorter version of the 24 sections **EXHIBIT(los06a13)**. The Department of Justice had four minor changes on the bill and suggested an amendment **EXHIBIT(los06a14)**. I will turn this over to Mr. Jeff Martin to double check to see if we concur with the Dept. of Justice. Otherwise, it is a clean and simple bill.

**Proponents' Testimony:**

Dean Roberts, Administrator, Motor Vehicle Division, Dept. of Justice. We administer HB 540. This bill is clean up language and we have no problem with the bill.

**Opponents' Testimony:** None

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**Questions from Committee Members and Responses:**

SEN. CHRIS CHRISTIAENS wanted to know the distribution of the fees because he runs a transit district which is a separate taxing authority that has received a portion of licensing fees in the past. The changes in law over the past year and one half, has caused him to lose \$144,000 of revenue which severely hampers transportation particularly to the elderly and the disabled in his community. SEN. GLASER stated that there are four other bills and there are many policy decisions in those bills. There

should be policy decisions of distribution in those bills. There is a large report also that came out of the interim committee.

**SEN. JIM ELLIOTT** stated that if all these bills interact, should all five bills be presented at the same time. **SEN. GLASER** replied that SB 175 only addresses minor problems and actually does not interact with the other four bills. This bill needs to be passed no matter what happens to the others.

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**CHAIRMAN MAHLUM** said that the other bills are being held up to let the new director get established and also to make sure the fiscal notes are done.

**SEN. EMILY STONINGTON** said that she had been on the Revenue and Taxation Interim Committee and more important than how this bill interacts with the other four is to look at how those four bills will interact with what is being called the "Big Bill" that **REP. BOB STORY** is carrying in the House. That bill tries to encompass the entire fee distribution and reimbursement to local governments. The reason these four bills were designed in such a manner was because the Interim Committee was not certain of the outcome of the "Big Bill" and the committee thought this separate treatment of how the fees are distributed as a result of the referendum passing, needed to be dealt with as separate bills. There are three separate bills and one composite bill.

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**SEN. JOHN COBB** asked about page 20, lines 25-26 as it reads "local option vehicle tax" and on line 29 as it reads "local option vehicle tax" again and on page 21, line 10 as it reads "local option tax". He wondered if these are the same and if so, should there be a change to make it consistent. **Mr. Jeff Martin, Researcher**, said that for consistency it should read "local option vehicle tax" all the way through.

**Closing by Sponsor:**

**SEN. GLASER** closed. I would ask for a couple of days to make sure the amendments are correct before executive action. A fiscal note is still pending and should be available immediately. It is important that this bill move as quickly as possible through the Senate and on to the House. (At this point **CHAIRMAN MAHLUM** asked if two days would be enough for the amendments. **Mr. Jeff Martin** responded that with respect to the amendment that the Dept. of Justice is proposing, and after speaking with Brenda

Nordlund, Asst. Attorney General, the issue relates to the first year registration fee for new vehicles because that amount of money goes to the highways special revenue account. The reason that language is in there is to ensure the vehicle fees for the second year do not go into that account. He suggested that Brenda and he work on some language to make sure that her concerns are addressed but also to ensure that the second year registration fees of the vehicle does not go into the highways special revenue account. Two days should be enough.



**ADJOURNMENT**

Adjournment: 4:00 P.M.

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SEN. DALE MAHLUM, Chairman

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MARY GAY WELLS, Secretary

DM/MW

**EXHIBIT** (los06aad)